

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**NANCY LEWIS,**

**Plaintiff,**

**v.**

**No. CV 10–638 RHS/WDS**

**CAPITAL ONE and  
GEICO INSURANCE,**

**Defendants.**

**MEMORANDUM OPINION AND ORDER**

THIS MATTER comes before the Court on pro se Plaintiff Nancy Lewis's *Motion for Summary Judgment*, filed October 12, 2010 [Doc. 25]. After the Court granted in part and denied in part the Defendants' motions to dismiss and allowed Lewis an opportunity to amend her Complaint, *see* Doc. 23, Lewis filed an Amended Complaint the same day she filed her motion for summary judgment. No Rule 16 scheduling conference has yet occurred and, therefore, no formal discovery has taken place. *See* FED. R. CIV. P. 16(c). The rules of civil procedure, however, appear to allow the filing of a summary-judgment motion "at any time, even as early as the commencement of the action." FED. R. CIV. P. 56 (comments to 2009 amendments).

The Court should grant a motion for summary judgment only if "the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." FED. R. CIV. P. 56 (a) (Dec. 1, 2010). The Court must "view the evidence and draw any inferences in a light most favorable to the party opposing summary judgment . . . ." *Williams v. Rice*, 983 F.2d 177, 179 (10th Cir. 1993). The Defendants have submitted affidavits and documents disputing Lewis's allegations, and have cited to relevant legal authority that indicates that Lewis is

not entitled to judgment against either Defendant. For example, Defendants have shown, and Lewis does not dispute, that GEICO mailed to Lewis an insurance cancellation notice at the last address she provided and that Lewis defaulted on her contract to purchase her automobile by failing to make payments before she attempted to register the car in New Mexico. Lewis has failed to demonstrate that there are no genuine issues of material fact or that she is entitled to judgment as a matter of law.

**IT IS ORDERED** that Lewis's Motion for Summary Judgment [Doc. 25] is DENIED.

  
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ROBERT HAYES SCOTT  
UNITED STATES MAGISTRATE JUDGE